IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

TUESDAY, THE 3RD APRIL 2007 / 13TH CHAITHRA 1930

WP(C).No. 256 of 2007(E)

PETITIONER:

M/S.WORLDWIDE EMPLOYMENT & MIGRATION SERVICES, 38/188-B, THATTAMVEEDU, 2ND FLOOR, LISIE JUNCTION, KOCHI-682 018, REPRESENTED BY ITS MANAGER SRI.SHERIEF BAPU, AGED 55 YEARS,SON OF SRI.BAPPU, PUTHAPARAMBU, CHANGANASSERY, PIN-686 101.

BY ADV. SRI.ANIL S.RAJ
SMT.MANJUSHA MOHANDAS

RESPONDENTS:

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1. UNION OF INDIA, REPRESENTED BY THE SECRETARY, MINISTRY OF OVERSEAS INDIAN AFFAIRS, PRAVASI BHARTIYA KARYA MANTHRALAYA AKBAR BHAVAN, SATYA MARG, CHANAKYAPURI, NEW DELHI-110 021.

2. THE PROTECTOR GENERAL OF EMIGRANTS, OFFICE OF THE PROTECTOR GENERAL OF EMIGRANTS, MINISTRY OF OVERSEAS INDIAN AFFAIRS, PRAVASI BHARTIYA KARYA MANTHRALAYA AKBAR BHAWAN, SATYA MARG, CHANAKYAPURI, NEW DELHI-110 021.

3. THE PROTECTOR OF EMIGRANTS, OFFICE OF THE PROTECTOR OF EMIGRANTS, 4TH FLOOR, MERCY ESTATE, RAVIPURAM, COCHIN-682 015.

4. THE BRANCH MANAGER, STATE BANK OF INDIA, LISIE HOSPITAL, ERNAKULAM, COCHIN-682 018.

BY ADV. SRI.GEORGE KURUVILLA(ALAPPUZHA)
SRI.K.K.CHANDRAN PILLAI
BY GOVERNMENT PLEADER SRI.I.V.PRAMOD.
BY ASSISTANT SOLICITOR GENERAL SRI.JOHN VARGHESE.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 03/04/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

S.SIRI JAGAN, J.

W.P(C) NO. 256 OF 2007 - E

Dated this the 3rd day of April, 2007

J U D G M E N T

The petitioner challenges Ext.P9 order issued under the Emigration Act by which the bank guarantee furnished by him has been directed to be invoked on account of violation of the provisions of the Emigration Act by the petitioner. The primary challenge of the petitioner against Ext.P9 order is on the ground of violation of principles of natural justice. He points out that in Ext.P9 order, it is stated that although a show cause notice has been issued to him, directing him to show cause why the bank guarantee furnished by the petitioner should not be forfeited, the petitioner has not replied to the same. On the other hand, in the statement filed on behalf of respondents in this writ petition, it has been admitted that Ext.P8 reply has been received by them, but they did not find any merit in the explanation and mistakenly, it was noted in Ext.P9 that the petitioner had not replied to the show cause notice.

2. I have heard learned counsel for the petitioner as also

learned counsel appearing for respondents 1 to 3.

3. Now that the respondents themselves admitted that Ext.P8 reply to Ext.P7 show cause notice has been received and the same has not been adverted to in Ext.P9 order, it is only appropriate that natural justice be complied with by passing fresh orders after considering the explanation furnished by the petitioner as per Ext.P8 and also affording an opportunity of being heard to the petitioner. Accordingly, I quash Ext.P9 and direct the second respondent to pass fresh orders after considering Ext.P8 reply submitted by the petitioner as also affording an opportunity of being heard to the petitioner. Since I quash Ext.P9, needless to say, the invocation of the bank guarantee would also stand stayed.

4. Counsel for the Bank submits that the bank guarantee has already been invoked and the proceeds forwarded to the second respondent. The second respondent shall return the same to the Bank. The respondents shall reverse the process and do whatever is necessary to restore the position as obtaining prior to passing of Ext.P9 order.

The writ petition is disposed of as above.

S.SIRI JAGAN,
Judge

Mbs/